

REMARKS

Claims 1-10 and 12-21 are pending in the present application. By this Amendment, claim 22 has been cancelled. It is submitted that this Amendment is fully responsive to the Office Action dated June 25, 2010.

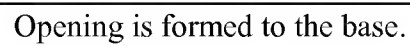
Claim Rejections - 35 U.S.C. §102

Claims 1-5, 7-11 and 21 are rejected under 35 U.S.C. §102(b) as being anticipated by Lee (USP 6,550,578).

This rejection is respectfully traversed. With regard to the claimed “opening,” regarding Applicant’s argument that the Examiner mischaracterizes the item 6 of Lee, the Examiner clearly acknowledges the drawbacks and deficiencies of Lee, that is, the bottom cover (item 6) of Lee ends prior to the dispensing head (page 3, item 7 of the Action). However, the Examiner newly relies on a movable strip 5 of Lee and alleges that:

the base of Lee is comprised of both the bottom cover and the movable strip 5, which is configured to hold the case body and forms the support on the bottom of the invention; and it is the movable strip, which forms a part of the base that forms an[d] opening, and allows the transfer head to be located in the opening during the use position (page 3, item 7 of the Action).

However, Applicants respectfully disagree with the Examiner’s position. In order to facilitate understandings of the difference between the present claimed invention and the disclosure of Lee, Fig. 5 of the present application and Fig. 5 of Lee are reproduced below in which openings are highlighted by dotted circles.



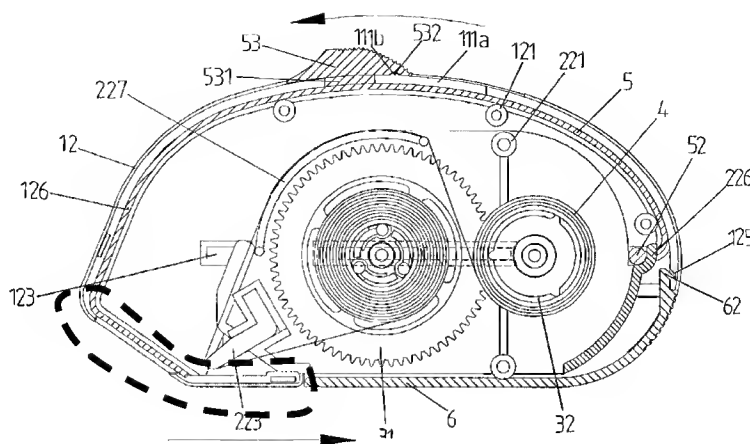


FIG. 5

Opening is formed to the case, not to the base.

First, the dispensing opening 122 of Lee is formed to the case 1 after the first and second half 11, 12 are assembled to each other. Thus, the dispensing opening 122 is formed to the case, not to the base. Moreover, the dispensing opening 122 formed to the Examiner's alleged base of Lee which is, according to the Examiner's allegation (see page 3, item 7 of the Action), comprised of both the bottom cover (item 6) and the movable strip (item 5), is not opened in the pivoting direction to the case body by the pivoting support portion, but opened in the protruding direction of the dispensing head 223 (see Fig. 7). Therefore, the dispensing opening 122 does not disclose or teach the "opening" of the present claims as recited in claim 1, "*an opening is formed in the base, the opening being opened in the pivoting direction to the case body by the pivoting support portion.*"

Next, even if assuming *arguendo* that the movable strip 5 of Lee may hold the case 1, as illustrated in Fig. 4 of Lee, the holding state held by the movable strip 5, in which the first half and second half which constitutes the case 1 are engageable, is not released even if the bottom cover 6 which constitutes the base is rotated. Therefore, the movable strip 5 does not correspond to the base of the present claims, particularly, as defined in the independent claim 1. In other words, there is no opening formed to the base in Lee.

Furthermore, the Examiner argues that the movable strip 5 forms an opening (page 3, item 7 of the Action). However, this is mischaracterization of the recitation of claim 1. Claim 1 recites “*an opening is formed in the base.*” It should be noted that the dispensing opening 122 is not formed in the movable strip 5 (see Figs. 3, 5 and 7 of Lee).

In view of the above, Applicants respectfully submit that the Examiner fails to establish a *prima facie* case of anticipation¹, and thus, reconsideration and withdrawal of the outstanding rejections are respectfully requested.

Claim Rejections - 35 U.S.C. §103

Claims 12-14 and 17-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Manusch (USP 4,851,076).

This rejection is respectfully traversed. Claims 12-14 and 17-18 are directly or indirectly dependent from claim 1 and recite the additional features set forth therein. Accordingly, claims

¹ “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). To establish anticipation, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001).

12-14 and 17-18 also patentably distinguish over Lee and Manusch for at least the reasons set forth above.

Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Applicant Admitted Prior Art Suzuki (JP 2002-178694).

This rejection is respectfully traversed. Claim 6 is indirectly dependent from claim 1 and recites the additional features set forth therein. Accordingly, claim 6 also patentably distinguishes over Lee and Suzuki for at least the reasons set forth above.

Claims 15-16 and 19-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Manusch, and further in view of Suzuki.

This rejection is respectfully traversed. Claims 15-16 and 19-20 are indirectly dependent from claim 1 and recite the additional features set forth therein. Accordingly, claims 15-16 and 19-20 also patentably distinguish over Lee, Manusch and Suzuki for at least the reasons set forth above.

Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Lee in view of Kobayashi (USP 6,745,808).

It is submitted that this rejection is now moot in view of the present amendment.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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